IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 24951 of 2007(U)

PETITIONER:

AJITH KUMAR,
SECTION OFFICER, KPSC DISTRICT OFFICE, KASARGODE.
PERMANENTLY RESIDING AT 'KAILAS', LAKSHMI NAGAR,
LIC LINE, PATTOM, TRIVANDRUM.

BY ADV. SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
SMT.R.LEELA

RESPONDENTS:

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1. THE CONTROLLER OF THE FINANCE,
KERALA PUBLIC SERVICE COMMISION,
TRIVANDRUM, PIN-695004.

2. P. SURESH,
SECTION OFFICER, KERALA PUBLIC SERVICE COMMISSION,
CHANDRIKA BHAVAN, NILAMEL, KADAKKAL.

3. THE BRANCH MANAGER,
KSFE, KOTTAYAM BRANCH, COMMERCIAL CENTER,KOTTAYAM.

4. THE BRANCH MANAGER,
KSFE STATUE BRANCH, SILVER JUBILEE BUILDING,
TRIVANDRUM.

R3 AND R4 BY ADV. SRI.T.NAVEEN, SC, K.S.F.E. LTD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 24951 OF 2007

Dated this the 23rd day of August, 2007

JUDGMENT

I do not think the question raised by the petitioner has to be decided by this Court because recovery has to be made in terms of the agreement. Petitioner admittedly is a surety for the loans availed by the second respondent and another person from KSFE. Petitioner does not dispute this fact, nor default by the borrower warranting recovery from him and the petitioner. However, relief claimed is the benefit of limit of attachment under Section 60(1)(i) of the CPC read with Section 80 of the RR Act. This Court has taken the view that where there is tri-partite agreement among debtor, guarantor and also financial institution, recovery could be made in terms of the agreement, no matter the amount agreed is in excess of the limit provided under Section 60(1)(i) of the CPC. Writ Petition is accordingly disposed of directing the disbursing authority in co-ordination with KSFE to verify the loans agreement and if there is no specified amount provided for in the agreements, recovery should be limited to limit prescribed under

Section 60(1)(i) of the CPC read with Section 80 of the RR Act. There will be direction to the KSFE to proceed with recovery against defaulters including the 2nd respondent who is also a defaulter.

(C.N.RAMACHANDRAN NAIR)
Judge